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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,177	10/23/2003	Frank Kirschner	GK-ZEI-1071 / 500593.2006	2610
26418	7590	07/31/2007	EXAMINER	
REED SMITH, LLP ATTN: PATENT RECORDS DEPARTMENT 599 LEXINGTON AVENUE, 29TH FLOOR NEW YORK, NY 10022-7650			PAIK, STEVE S	
			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/693,177

Applicant(s)

KIRSCHNER ET AL.

Examiner

Steven S. Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. Receipt is acknowledged of the Amendment filed April 23, 2007.

***Claim Objections***

2. Claim 1 is objected to because of the following informalities: the words in the parenthesis in line 10 appear to be inappropriate. The reference numerals may be included in the parenthesis. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Baus (US 4,780,599).

Re claim 1, Baus discloses a product presentation equipment (Fig. 1), comprising:

a screen (screen 68);

a computer system (control computer 69 in Fig. 1) connected to the screen (68) in which information on various products (products 52) can be stored and reproduced on the screen by operating appropriate operating devices (such as a reading device 56);

device for accommodating (shelf arrangement 50) at least two different products, for which visualizable information (via screen 68) is stored in the computer;

a switching device (in the form of a tag or label) assigned to each product;

wherein the switching device is directly (via direct line of sight) and automatically activated when a product (52) is taken into use and/or out of a housing (When a product is taken out of the shelf arrangement and brought near the reading device), so that with the activation (reading and transmitting the obtained information to a data processing unit 24 automatically and wirelessly) of the switching device, information (product related information) from the computer (Each product has a code 54, 54', 54" in the form of a bar code consisting of a plurality of lines of different width, spaced differently apart, etc.. The code corresponds more particularly to the number of the article and to data regarding weight, price, etc.) on the product is automatically reproduced on the screen; and

wherein the product represents an electroacoustic device and the equipment comprises means for the proper testing and/or for the activation of the electroacoustic device (It is also possible for several codes to be combined with a specific group of products for example, through the converters 64, in order to obtain a single address signal for a storage unit 30. The latter preferably includes a video disc or laser disc. The disc contains pieces of information associated with the products or group of products, and spot advertisements, customer information, applications, references to pertinent products, and the like. Upon being called up by the reading device 56, these pieces of information are passed on to the output unit 32 and are presented to the customer visually and/or acoustically. Furthermore, the reference does not limit the products to be a specific kind, and a bar code label may be attached to virtually any products.)

Re claim 2, Baus discloses the product presentation equipment of as recited in rejected claim 1 stated above, wherein further information on the product taken into use can be invoked

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by the operation of the operating devices (The reading device 56 reads or detects relevant product information encoded in the barcode.).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baus (US 4, 780,599) in view of Weaver (US2003/0227854A1).

The teachings of Baus have been fully discussed above with the exception of the product being a headphone reproducing sound data source.

Weaver discloses a product (10) in a package may include CDs, a CD player with a set of headphones to allow a prospective buyer to listen to a CD before purchasing. The packaged product allows a user the convenience of buying a music piece and a headphone for instant usability. Since the CD and headphone are already tested, the user does not have to worry about returning a damaged or a malfunctioning product. At the same time, the packaged product allows manufactures and merchants a chance to increase revenue by selling a product in a bundled package.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have included the product package of Weaver into the teachings of Baus for the purpose of increasing revenues and customer satisfaction and reducing inconvenience of a customer.

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7. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baus (US 4, 780,599) in view of Tsuchiuchi (US 2003/0093538A12).

Re claims 5 and 6, the teachings of Baus have been fully discussed above with the exception of the screen being a touch screen and a connection to the Internet page of the product supplier being produced by the operating device.

Tsuchiuchi discloses an information display and distribution device that includes a touch screen, a communication mode and switching function. A musical composition sales terminal 32 includes a control section 51, operating section (touch panel 52), a display section (LCD) 53, storage section 54, speaker (or headphone) 55, network adaptor 56, wireless communication section 57, and antenna 58. The device allows a user to selectively purchase a musical composition that are stored in the sales terminal or downloaded from an external device via a network (paragraph 0093).

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the touch screen function and the network adaptor of Tsuchiuchi into the teachings of Baus for the purpose of increasing selections of the musical composition and providing the convenience of touch screen to the user of the device.

Re claims 7 and 8, Baus in view of Tsuchiuchi discloses a short-range wireless communication.

Although, the reference does not explicitly indicate the short-range wireless communication includes infrared switch or mechanical switch. As obviously appreciated by an artisan in the field, infrared switch is a type of the short-range wireless communication protocol. A mechanical switch to operate a device between on and off positions is also well-known and

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conventional. The barcode label in Baus reference provides a similar function. When a product with a barcode is in the proximity of a reading device, it gets read and activates the encoded information to be presented on a display.

In view of above discussion, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to use a well known and conventional technique in addition to the teachings of Baus for the purposes improving the accuracy of data communication between a product having an indicia and a reading device.

#### ***Response to Arguments***

8. Applicant's arguments filed April 23, 2007 have been fully considered but they are not persuasive.

The applicant argues that Baus fails to teach or suggest the switching device is directly and automatically activated by amending independent claim 1.

The examiner respectfully disagrees. As discussed above, the barcode tag or label cannot transmit any information to automatically activate any device when it is attached to an item and left alone. However, when it is properly read by a reader within a direct line of sight of a scanning beam and transmits the scanned information to a data processing unit. It may function as a switching device to activate product related information on a display and an electroacoustic device. Therefore, it is interpreted that the cited prior arts of the record still reads on the claimed invention.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on Monday - Friday 6:30a-3:00p (Maxi-Flex\*).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR



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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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ssp